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GRADUATE SCHOOL

Thesis

CASE STUDIES OF INDUSTRIAL DISPUTES

by

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Outline.

I. Causes of Industrial Disputes.
   a. Struggle for Unionization.
   b. Wages of Labor.
   c. Hours of Labor.
   d. Conditions of Employment.

II. Methods of Handling Disputes.
   a. By Management.
   b. By Unions.

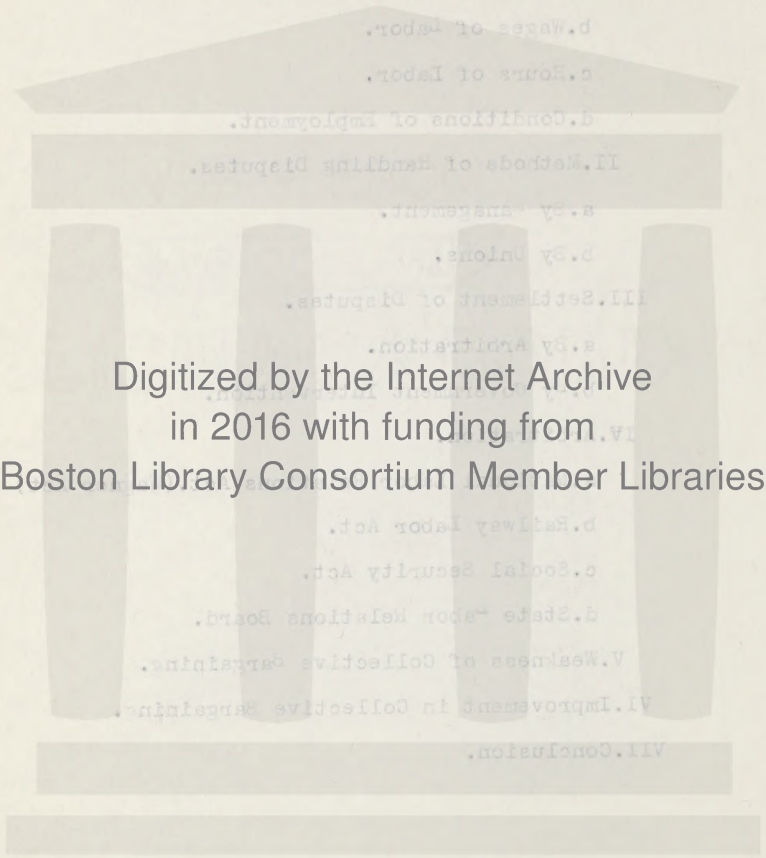
III. Settlement of Disputes.
   a. By Arbitration.
   b. By Government Intervention.

IV. Arbitration.
   a. National Labor Relations Act. (Wagner Act)
   b. Railway Labor Act.
   c. Social Security Act.
   d. State Labor Relations Board.

V. Weakness of Collective Bargaining.

VI. Improvement in Collective Bargaining.

VII. Conclusion.



Purpose.

This investigation was undertaken with the primary desire to ascertain, if possible, the underlying causes of industrial disputes, by studying the actual cases which have occurred. The problem presented many and varied difficulties, the principle obstacle was the lack of comprehensive data on strikes and other industrial disorders.

The writer made extensive use of the Labor Library in the Littauer School of Public Administration at Harvard University. In collecting the information as to the causes and the methods employed in settling industrial disputes, it was necessary to read some 500 cases of industrial strife. Since this information was widely scattered in magazine articles, newspaper accounts, public documents of the United States Government, and few books, it was decided to discuss only representative cases in various categories of industry.

It was found after reading the causes of many disputes, to classify the causes in the following manner:

1. Those disputes arising from a desire to force management to recognize labor unions.
2. Those disputes arising from the desire for higher wages.
3. Those disputes arising from racial discrimination.
4. Those disputes arising from disciplinary causes.

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causes. The methods and the findings were of primary importance so that some pattern could be woven and comprehensive results deduced. Another factor considered was the different classes of industry and the experiences they have encountered in labor disputes. The steel, coal, automobile and textile industries were felt to be excellent cross sections of industrial America. Cases were selected in these industries to show the causes and the result of industrial warfare.

In choosing the outstanding cases of labor-management disputes, the methods employed to bring them to a satisfactory conclusion for all concerned, was given initial importance.

Arbitration appears to be an effective and practical means of disposing of disputes as a substitute for wasteful interruptions in production. There are indications that the number of instances of arbitration and the significance of arbitrational awards will continue to grow as rapidly for some time in the future as they have in the immediate past. Court action, as a rule, is too slow and too technical to offer a sufficiently prompt or adaptable solution for labor disputes. Courts are not always in session, and when they are, they are not equipped with adequate tools and rules to enable them to solve many controversies which daily arise in the fields of ethics and general employer-employee relationships.

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I Causes of Industrial Disputes.

Almost up to the beginning of the twentieth century, it would have been regarded in America as an unwarranted interference in private affairs for the federal government to intervene in aiding the establishment of wage rates, hours of labor, and conditions under which the worker was forced to earn his livlihood. However, three entirely separate and distinct factors gave rise to government attempts at regulation of these conditions. The first was the sweatshop evil; second, the stoppage of work with injuries resulting to the public from strikes and other forms of industrial conflicts; and the third was the general economic depression which started in 1929.

Less than seventy-five years ago, when industry was small, and the owner worked alongside the employee; there was a direct contact between the employer and the workman. They knew each other personally, and they were conscious of a mutual interest in their relationship. It was necessary for the workman to possess certain skills which established him as an individual of some importance, not only with his employer, but with the community as well. This self respect placed the worker on a more equal level with the master craftsman who usually owned the business. Theirs was a common language in which they discussed common interests, understanding and mutual respect.

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As the years went by, industry grew into corporate form with the resulting separation between owner and workman. Into being came great organizations in which transmission lines were

formed connecting the top executives and the workman. Except through the foreman, direct contact was no longer possible between the top executive and his workman.

Ever changing conditions intensified competitive forces, and the problem, "Survival of the Fittest", became the chief concern of top management. Energies were directed almost entirely toward the objectives of improved methods, better materials, new products, greater markets, and the transfer of skills from men to machines. Comparatively little thought or study, and practically no research, were given to the question of understanding human behavior. There was no time, nor did it seem necessary, to develop better understanding and confidence in dealing with the worker.

If the worker protested conditions, his voice was very seldom heard beyond the ears of his immediate superiors. The foreman's word was the last, and in many instances, he did not consider the workman's complaint seriously. Grievances, which were of great importance in the worker's mind, were frequently made light of by the foreman. There was nothing for the workman to do but "take it or leave it". If he went over the foreman's head on any matter which the foreman had not handled to the worker's satisfaction, it was certain to end in a separation from the job. The foreman was in reality the company to the workman. He was the judge and jury who dealt out decisions arbitrarily, and who in many cases, did not even bother to get the facts. Unjust decisions were handed out at

times in order to cover inefficiencies on the foreman's part.

a. Struggle for Unionization.

When, on occasion, a worker expressed a desire to join up with his fellow workmen so that their voices could be heard, immediate steps were taken to break up such contemplated procedure on the workman's part. To make sure that no such organization took place, great associations were formed to fight unionism in any and all of its forms. The divine right of the employer to deal the cards with a take-it-or-leave-it attitude had to be protected at any cost.

Thus the workman began to doubt and to wonder that his best interest lay in the same direction as those of the company. He watched the growth of associations to prevent him from organizing. He became aware of the espionage systems in operation to spy on him. His earnings were figured according to complicated systems which he was unable to understand. The workman realized his inability to cope with mechanization and relocation of industry. New machines appeared to take away his job, and he was faced with the necessity of finding a new job, frequently under conditions which caused him to wonder if all the effort, interest and skill he had exerted were really worth while. He was aware that favoritism and family relationship were the bases for promotion instead of ability and increased endeavor.

Slowly but surely out of the depths of his despair, he reached the conclusion that something must be done if his voice

was to be heard. Thus industry through its own shortcomings gave the impetus to the formation of the mighty trade unions the world has seen rise to a dominant place in the industrial life of the world.

United Mine Workers of Colorado.

Labor from its infancy has contended, that the worker has a moral right to a just share of the wealth he creates. This share should be in the form of compensation for his skill, devotion and honesty. To test this contention for higher wages, there was organized in 1900 the first local of the United Mine Workers of Colorado. The following year a district organization was formed with fifteen locals, only to be eliminated early in its existence by "employer-inspired official violence." However, the United Mine Workers continued secret organization activities, and in 1903 a revived district organization came out into the open with a public letter to the Governor of Colorado in which a list of the coal miner's grievances was recited. This action developed into a year long strike, 1903-1904 in the Trinidad district against the Colorado Iron and Fuel Co., a Rockefeller concern. Strife developed and as a result, the Coal Miner's organization collapsed in the struggle.

In 1910 the United Mine Workers again approached the Colorado Coal fields and called a strike April 1st, and again they failed. The organization continued to function and in 1913, another strike was called and this venture was successful.

The demands of the union consisted of the following:

(1) Recognition of the union

(2) A 10% increase in wages

(3) An eight hour day for all labor

(4) The right to trade in any store they wanted and to choose their boarding house and doctor

The Unionists were insistent upon the establishment of a policy of recognition of the union closed shop and a written agreement specifying the terms of employment and providing for the adjustment of grievances. These demands were refused and no attempt was made to avert the strike, set for the 23rd of September, not even to the extent of granting the union a conference with the mine owners. The companies affected provided subsistence for 30,000 people, most of them Greek, Slavs, Italians and Mexicans. With the refusal even to confer regarding the demands, there ensued a struggle, which for bitterness and violence, has few equals in the entire history of industrial relations. Nine thousand miners answered the strike call on the twenty-third and marched with their possessions and families out of the company camps to establish tent colonies on land adjacent or near the mining properties.

The company immediately imported strike-breakers and a period of savage brutality followed. Conditions became so difficult in a short time, the company requested the Governor of Colorado to send the National Guard to protect the mining property. The troops arrived on the 26th of October and

occupied a front of some 120 miles. There were early attempts on the part of the militia to be impartial, but by November, they were intimidating the strikers and defending the strike breakers at all times. At the Governor's request the Colorado Federation of Labor investigated the charges against the militia. These were found to be so serious the committee appealed to United States Senators and Representatives to bring about a federal investigation. One of the most serious and tragic violences perpetrated was the Ludlow Massacre of April 20th. Men, women and children were killed and violated in every possible manner by the troops. It was alleged at the time that the company had men dressed as soldiers, and they committed some of the most heinous crimes. This massacre caused the strikers to avenge themselves and the Governor was forced to appeal to President Wilson to send federal troops because state forces were inadequate to keep order. This act brought the strike to the attention of the whole country.

Congressman Foster, chairman of the House Committee on mining, appealed to John D. Rockefeller, Jr. a principal stock holder in the Colorado Fuel and Iron Co. to intervene, but Rockefeller refused. Secretary of War Garrison called upon all strikers, mine guards and neutrals in the strike zone to surrender their arms to the federal troops. The federal commander prohibited the importation of strike breakers and Wilson attempted mediation. This mediation consisted of a three year truce, which provided for the enforcement of the mining

laws of the state, re-employment of striking miners not found guilty of violations of the law; a guarantee of non-intimidation of the workers either by the union or the mining companies, the posting of a current wage scale. This mediation measure was accepted by the workers but refused and rejected by the mine operators. The strikers sent a committee of three workers to meet with the President of the United States to bring about a termination of the strike on December 10, 1913.

In the meantime John D. Rockefeller, Jr. had been corresponding with W.L. MacKenzie King, formerly Minister of Labor in Canada, and author of the Industrial Disputes Act of 1907. Mr. Rockefeller asked Mr. King for some advice on "organization in the mining camps which will assure to the employees the opportunities of unionization."

Mr. Rockefeller believed the loss of personal relationship between management and the men to be the most important problem in industrial relations, and he submitted a plan which subsequently was to go far in an effort to restore this personal relationship.

Both Mr. Rockefeller and Mr. King believed that the lack of personal relationship between directing management and the employees was the origin of the bitter conflict in the coal strike in Colorado. Mr. Rockefeller's plan was a principle of representation. The idea was to apply in industry the mechanism of republican government in political life.

The Colorado mine workers finally achieved all of their aims

and the union and union membership was accepted by the operators.

b. Wages of Labor

Many economists have long enunciated the principle that labor has a just and equitable claim against the wealth it produces. The long struggle for recognition of this right has been the cause of countless industrial disputes. The coming of the Industrial Revolution, which first manifested itself in the factory system in England, and later in all the other manufacturing countries of the world, give the worker a reasonable argument for higher wages for his time, skill and effort. Increased production because of technological improvements resulted in large profits to the factory owners and huge dividends to the investors. The workers received just enough to keep body and soul together. The union leaders advanced a basic premise "because of huge profits, industry can afford to pay higher wages."

While the struggle for unionization is a means, wages as a cause of strikes, is the end in itself. The important thing to the individual laborer is the amount of money he receives. His whole purpose in unionization and in striking is to get high wages, while the interest of the employer is to pay low wages and receive high profits.

The question of wages and how they are regulated is interesting but difficult to answer definitely. Economists have made their contribution and whether or not we accept them, we must consider them in any discussion of wages.

Iron Law of Wages.

In the early part of the nineteenth century,Ricardo and Malthus gave us the earliest interpretations of the theory known as the "Iron Law " of wages.They based their argument on the theory that the wages of labor always tend toward the minimum of subsistence necessary for the laborer's family.Thus the wage below the amount necessary for subsistence tends to increase the death rate and decrease the birth rate and results in a scarcity of labor.Industry,in order to survive,is forced to increase wages gradually.As wages rise,the birth rate increases and the death rate falls,until there is again an excess of labor,which is reduced through the "niggardliness of nature"and the cycle is completed.Such fatalism could not be accepted for long and gave way to another interpretation,that of the Wage Fund Theory.

Wage Fund Theory.

The Wage Fund Theory was accepted by the greatest thinkers of the middle period of the nineteenth century.JohnStuart Mill,prolific and expressive writer,stated:"Wages not only depend upon the relative amount of capital and population,but cannot under the rule of competition be affected by anything else.Wages cannot rise but by increase in the aggregate funds employed in hiring laborers or a diminuation of the funds.

Productivity Theory.

This theory covers the entire field of distribution in economics. Here the principles of diminishing returns and marginal or final utility are brought into play.

John Bates Clark, whose name is associated with this theory as its sponsor, says, "The law of wages would stand thus:

1. By common mercantile rule, all men of a given degree of ability must take what the marginal men of the same ability get. This principle fixes the market rate of wages.

2. Marginal men get what they produce. This principle governs wages more remotely by fixing a natural standard for them.

3. Each unit of labor is worth to its employer what the last unit produces, as real as gravity is the force which draws the actual pay of men toward a standard which is set by the final productivity law."

These theories gave no satisfaction. The first one promises the worker salvation, the second assures him he will get little because of wider distribution of wages, and the third reveals to the worker that if the population increases thus

throwing more men into his particular field of endeavor, the marginal product will be less and his wages will be necessarily less. This has led thinkers to try to overcome the situation by establishing a new basis for wage adjustment. Almost without exception the all-important question arises---what is a living wage and how are men to obtain it? Tied into all labor disputes is the problem of wages.

Since 1890, almost 80% of the industrial disputes in the United States have been brought about because of wage demands. The strike has been the universal medium that the workers have employed to gain their ends. A strike is variously defined as a simultaneous cessation of work, or as a combined action by the workers either to compel their employer to accede to their demands or to oppose the demands of the employer himself. The fundamental thing in any definition of a strike ought to be the emphasis of the fact that it is quite difference from mere stoppage or quitting of work by the individual employee. It has been the habit of the courts of law to couple strikes with the individual's right to leave his work. The strike is a collective move to quit work but not to quit definitely. The purpose in the back of the minds of the strikers is not to leave one's employer to go to another but to compet the same employer to accede to their demands, with the intention of keeping their same job.

In September, 1936, the Carnegie-Illinois Steel Corporation, principal subsidiary of the United States Steel Corporation, in

response to employees' request for higher wages, issued a formal statement to its workers giving the reasons why the company considered itself unable to grant further increases at that time.

The Carnegie-Illinois Steel Corporation had been formed in 1935 by the consolidation of the operating facilities of the two predecessor subsidiaries, the Carnegie and the Illinois concerns. The new company at that time had an annual capacity of 20,460,900 tons of steel ingots or castings, equal to 74.83% of the total of 27,341,900 tons for the entire United States Steel Corporation, and equivalent to 29.72% of the entire industry's capacity of 68,849,717 tons. This capacity greatly exceeded the 9,360,000 tons of the Bethlehem Steel Corporation, second largest producer, and the 6,129,000 tons of the third largest, the Republic Steel Corporation. In 1936, the properties and the activities of another United States Steel subsidiary, the American Tin Plate Company, were merged with those of the Carnegie-Illinois Steel Corporation.

The merger of the Carnegie and the Illinois had been undertaken in order to acquire greater corporate simplicity and to eliminate some overlapping of sales organization and duplication of production personnel. The new corporation had manufacturing and selling facilities for every important steel product from the lightest to the heaviest.

The labor policies of the United States Steel Corporation had been criticized for many years by labor leaders. After passage in 1933 of the National Industrial Recovery Act,

employee representatives plan, sometimes referred to as "company unions," were established in most of the plants of the Corporation. These plans provided for the election, by the employees, of representatives authorized under the arrangements to participate in joint committees with representatives of the managements in the consideration of disputes.

The labor situation in the steel industry became the subject of further concern to the steel companies in the spring of 1936, when John L. Lewis, having broken with the American Federation of Labor, formed the committee for Industrial Organization and announced his intention of organizing the steel industry for the first time in its history.

The hourly wage rate for basic common labor in the steel industry, including the United States Steel Corporation, had remained unchanged, at 44 cents an hour, from August, 1923 to October 1,1931, when it was reduced 10% to 39.6 cents. In May, 1932 there was a cut of 15% to 33.7 cents. The rate was increased by the Corporation to 40 cents in July, 1933 when the NRA code was pending.

In September, 1936, there was an adjustment which affected only the 10 hour schedule of the common laborers, who were placed on an eight hour schedule and given an hourly raise of 2½ cents an hour. The remainder of the employees received no increase.

At the same time, 36 employee representatives from 12 sheet and tin plate plants of the Corporation met in Pittsburgh for

their annual convention. After four days of secret discussions, they demanded a minimum daily wage of $5.00 for unskilled labor. Among other things, the group asked the Corporation to establish a pension plan and seniority rights, to grant vacations with pay, to abolish all incentive pay rates in the sheet and tin plate mills, and to designate every other Friday as pay day.

During the autumn of 1936, employee representatives reiterated their contention that the company could afford to pay higher wages, and renewed the demand for increases. By the middle of October, the company recognized for bargaining purposes a committee of 18 employees, known as the General Council of Employees' Representatives. This council comprised two members from each of the nine of the Corporation's eighteen plants.

T he Council proposed that outside arbitrators be called in to determine the company's ability to pay higher wages. The company refused to submit the problem to outside arbitration, on the grounds that such a procedure would give outsiders control in the dispute, and that the company's books would be thrown open to the public and competitors during the arbitration proceedings, and that this step would wreck the objective of the employee's representation plan, which was that the company and the employees should settle their own problems without outside advice.

On October 28, the company refused a request by the employees for an increase of $1.12 a day for all employees, but agreed

to negotiate for a compromise.Immediately following this negotiation,the Carnegie-Illinois Steel Corporation announced an additional increase of $3 to $8 a ton on the products of their mills.

When the workers became aware of the increase in the price of the products they were producing,they immediately renewed theur request for higher wages,stating as their basic premise,the cost of living had risen and it was necessary for them to receive higher wages in order to provide for themselves and their families.As a result of this attack,the Carnegie-Illinois Steel Corporation signed an agreement on March 16,1936,which granted a substantial increase to all categories of workers in their employ.

c.Hours of Labor

There have been long and laborious agitation for shorter hours in all branches of industry.For two generations the steel industry had been notorious for its long hours of work,excessive heat from the ovens,and in general all round bad working conditions.Of all these conditions,the long hours of toil was the chief complaint of the workers.The twelve hour day,seven day week schedule had done more to undermine the health and general well being of the workers than any other single factor. The employees wanted time away from the furnaces in order to enjoy the companionship of their wives and children.This desire could hardly be called unjust.The incident of accidents in the steel industry was high and medical authorities pointed an accusing finger at the long hours the men were compelled to work.

The coal, rail and steel industry together with the textile industry, have a sorry record for the long and arduous hours the workers were compelled to toil. Until as late as 1923, the twelve hour day was the usual program in most industries. The Railroad Brotherhood was the first organization to take effective action in a program to reduce the hours of work. Medical research into the cause of accidents in the five major industries, pointed out that excessive fatigue, brought on by long hours of work, was the major cause for 79% of industrial accidents. It was noted that the longer the employee was required to toil, the less active his reflexes. Hence he was more susceptible to injury. Another important finding was made in respect to the recovery of men injured. It was discovered that the period of complete recovery was considerably longer for an industrial worker than any other patient with a similar injury. This led doctors to believe that a great reduction in strength and recuperative powers had been lessened by long hours of employment.

Early in the serious unemployment period, the American labor interests strongly advocated hours limitation by law. The hope was that this would be a means of spreading work among a larger number of workers.

The Fair Labor Standards Act went into effect in October of 1938. It was estimated that some 11,000,000 employees were covered by its provisions, and that 1,500,000 would benefit by the shorter hours, and 750,000 would benefit by pay increases.

The working week of those covered by the Act was immediately shortened to forty-four hours and eventually to forty.

What this law actually does is to establish a floor for wages and a ceiling for hours, the standards to be the same throughout the United States.

Under this legislation it will be impossible for industries to move across state boundaries and with cheap labor and long hours to set up unfair competition. A factory in one state with a good labor law will not have to face a factory in another state with bad labor laws, which permits industry to overwork and underpay its employees and thereby sell for less.

In time the result should be more settled conditions and less irritation on the part of both industry and labor. It ought to mean more money to spend and more efficient work. If an employer must pay overtime for more than forty-four hours of work a week, he will get in extra workers, which in turn ought to lessen the burden of unemployment. On the other hand, considering the long range economic effects of the law, the question must be raised as to whether or not it will result in displacement of low-paid workers by machinery. Such workers are now doing by hand what a machine might accomplish more cheaply and perhaps more efficiently.

Another question pushed to the fore by the Act is its effect on the tendency toward decentralization of industry. Will higher wages and shorter hours force out of business the marginal producer in various fields? No sooner had the law

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been put in to effect than a number of pecan-shelling firms, which had been paying ten to fifteen cents an hour, shut down. The tobacco industry was reported to have laid off thousands of workers rather than raise their wages to twenty-five cents an hour. Telegraph companies and many other industries did likewise.

The wage and hour law has brought into consideration many social and economic implications, and the answer to these questions must await further experience.

d. Conditions of Employment.

From the foregoing remarks it has been pointed out that the desire for union recognition, increase in wages and reduction of hours, have in general constituted the major issues in industrial disputes. However, another condition has given rise to many turbulent reactions by workers.

The conditions of employment is a subject that has caused management to revamp its industrial policy and expend large sums of money in order to correct some flagrant abuses.

In the chemical industry, it has been necessary for the factory owners to install costly equipment in order that some of the hazards of this type of employment might be reduced. In the manufacture of strong acids, it was the custom in a previous era, to compel the workers to supply their protection in the form of proper clothing, boots and rubber gloves. Since there was a small demand for these products, their cost was high and the workers were forced to purchase them or run

the risk of being injured, if they worked without them. The cost was in reality a reduction in pay, since the worker had to make the purchase out of his own pocket. Through union action, management in the chemical industry has been forced to correct such conditions and to supply the workers with the proper equipment in order to insure the maximum of personal safety.

In the steel and coal industry, the hazards of employment have long been noted. The manner in which safety precautions by management have been neglected, has caused the countless loss of life in mine disasters. In the recent coal strike one of the major issues of the union was the strict enforcement of all federal and state regulations concerning mine safety.

In the steel industry, the exposure to extreme high temperature has been the cause of loss of health to many workers. Recently all steel corporations have agreed to shorten the period of exposure and all workers who toil at or near the furnaces will be given relief at no loss of pay.

The elementary conveniences of life such as pure drinking water and sanitary toilet facilities are only recent innovations in most industries.

II Methods of Handling Disputes:

a. By Unions.

When an industrial dispute arose in a factory that was under union organization, if management refused to acceed to the demands of the workers a strike was called and the plant was forced to close or resort to the employment of strike-breakers.

b. By Management.

Historically, when a difference between a manufacturer and his employees reached a point where a strike was declared, the operator had one of three choices: 1, he may capitulate to the strikers, 2, he may determine the breakage of the strike, 3, he may negotiate with them and attempt a compromise. If and when he chooses the last course, he may advertise for new employees who are willing to work on the terms rejected by the strikers. On the other hand he may, and often does, telegraph to a strike-breaking agency. If the representatives of these agencies are not already on the scene, they immediately take the fastest transportation that will get them there and proceed to talk business, just as any other commercial salesman would. When terms are finally reached, the strike-breaking agency begins its work.

The history of strike-breaking is not an attractive one, it has been, and still is, often bloody and murderous. Its employees are often an army of thugs and mercenaries. They are apt to have no legal responsibility and are therefore

unscrupulous in the use of technique. Too, it is often a profitable business, and the profit has been an aid to this particular brand of justice. It is also interesting to note that this strike-breaking industry which thrives on legitimate industrial disputes exists in no other country in the world except the United States. Why it exists here and why it has never been thoroughly exposed by our courts, remains one of the industrial mysteries of our times.

The first strike-breaking agency in this country was set up by Allen Pinkerton in the seventies. This agency supplied guards for "life and property" not men to take the place of the strikers. The first to organize armies for shipment over the nation wherever men quit their work for better pay or shorter hours was Jack Whitehead. He operated from about 1885 to 1890. One Jim Farley was his successor. Under Farley's guidance, the profession acquired a halo which the various branches of strike breakers have since attempted to maintain. Farley was said to have been a brave and generous man, he took only men who were trained mechanics, each an expert in his job. The myth continues with the notion that Farley never broke a strike in which the employees on strike were paid less than two dollars a day. Mr. Farley apparently wished to convince labor that there were depths to which he would not sink.

Farley's last strike-breaking job was in San Francisco in 1907, when 12 men were killed and 252 wounded as a result of the strike-breaking siege. After this battle the Farley men

worked under the Bergoff agency. Bergoff took a page from the book of industry and specialized in three principal departments: 1, undercover department, 2, open shop department, to keep the wheels of industry moving, 3, protection department, for the protection of life and property. Other agencies have specialized also, for example, Burns and Pinkerton men excelled in industrial espionage, Baldwin-Felts men worked more in the special coal mines of West Virginia and Colorado. When it came to recruiting large numbers of men for strike-breaking, Bergoff was usually the first agency called.

Strike-breaking has been a costly business for industry. Besides the high prices paid to the agency, strike-breakers usually steal or destroy every thing on which they can lay their hands. They have been known to steal plumbing fixtures, expensive furs and each other's old clothes. A strike breaker is usually paid $12 to $15 a day and what he can steal. During street car strikes, strike-breakers consider it legitimate to take the fares, and when one railroad company issued "slugs" the strike-breakers went on strike until they were permitted to collect the money. Bergoff claims that a car barn with 500 strike-breakers in it is worth from $3500 to $5000 a day. From 1914 to 1924 Bergoff collected $10,000,000 for his strike-breaking activities.

The business of strike-breaking is still with us. Standard Oil of New York in 1921 paid Bergoff $175,000 for two weeks work. In 1934 Bergoff sent his men to Milwaukee but Mayor Hoan

immediately had most of them arrested. In 1935 his men were sent to Georgia, but the Governor had them deported.

Though the field of professional strike-breaking is at this time narrowed by company unions, by racketeers and by private espionage systems such as those maintained by the automobile industry and the United States Steel Corporation there is not a large city in the country where private detective agencies will not be glad to furnish informers, strike-breakers and guards. About 50% of the licensed detective agencies in New York solicit strike-breaking work.

Many authorities contend at this time that had industry been as solicitous of labor as it has been of strike-breakers, the Committee of Industrial Organization would never have come into being. The C.I.O. is largely a revolt against company unions that have not only been tolerated but encouraged by the American Federation of Labor. These company unions many times have but little short of organized racketeers, working for industry. The rapid success of the C.I.O. in organizing the mass production industries can be attributed to the conscious recognition on the part of labor of the need for the right to maintain their own labor organization for the purposes of bargaining and of settling labor disputes generally. Whether the movement is permanent or temporary only the future can answer. At any rate the C.I.O. has achieved astonishing results in its short existence and appears now to be digging in to consolidate its hard won gains. It is certainly a force to be reckoned with

in the economic and political life of both industry and labor.

Boards of arbitration and mediation with the sanction of law would not only make organized strike-breakers impossible but would make them unnecessary. The machinery and the tactics of the two are different. Strike-breakers employed by capital, when a real issue is at stake, never settle the trouble.

The laws creating labor relation boards seek to assure to labor the right to free organization, and to write into public policy the theory that industrial peace can be achieved most lastingly if there is a balance of power between labor and industry. The history of labor disputes has demonstrated that a great preponderance of industrial power on one side or the other has never made for long-time stability, except on the basis of exploitation and coercion. This same history also indicates that collectively established principles are the most successful in industries where both labor and capital have been effectively organized. If, therefore, the present drive by federal and state governments to create laws permitting labor to organize results in equalizing the status of workers and their employees it will have unquestionably established machinery and a technique of industrial peace.

It does seem strange that in the field of interstate commerce, over which the federal government has jurisdiction, should have been without systematic labor adjustment machinery to prevent interruption of service until as late as the Wagner Act. This seems all the more incredible when it has as

an example in the limited transportation field an effective system of conciliation, mediation, arbitration, investigation and adjudication, developed by Congress over a half century of experience. Losses in wages, employment, destruction and business mounts to hundred of millions of dollars; hatred and class feeling are developed; while in the railroad industry a high degree of peace has been maintained since the adoption of the Railroad Labor Act of 1926.

The history of industrial strife is filled with industrial tragedies that could have been avoided, if the disputents had been provided with a legal program of procedure. Legislation and experience show also that the government has barely opened up this vast problem of national labor relations.

The federal government had lately reentered the field of labor and industrial disputes and will play in it no secondary role. Its interest is bound to be more recognized by increasingly large numbers, not however as its own interest, but as a group of interest most vital to the general welfare. The government must play a detached role and guard against excessive claims made by labor due to its shifting economic power. That labor has been sorely dealt with in the past cannot be denied. That it has a just cause for grievance but few informed people will question. Labor should and will claim a considerable influence, proportioned to its importance and to its capacity to participate, but in any event its role must remain subordinate to the general welfare. Federal and state governments should

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be in a better position to determine and to protect the general welfare than either labor or industry which are involved in their own economic warfare and self-interest.

Whether or not national labor legislation is sponsored by political parties, it cannot but exercise a great influence upon politics. The connection between the political program of the state or national administration and the material well being of the general public is to intimate to leave the workers indifferent toward national politics. More and more, labor in state and national conventions, and through its federations and unions, will formulate resolutions of criticism or of approval; and political programs will be drawn up with an eye to meeting these demands. Industry if it runs true to form, will follow the same procedure in an effort to meet and offset the gains of labor. No better example of this is needed than the American Liberty League versus the C.I.O. in the last presidential campaign.

Labor is not only finding fault and agitating, but it is at work studying modern economic problems with great care. It is desirous of proving itself worthy of participation in the management of industry and the control of capital. Most labor leaders today realize that there is no resemblance whatever between a political revolution and an economic one, and they have come to see the later as a stupendous delusion.

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The dictates of human experience, and the none too sane judgement of some of its organizers, makes labor conscious of its oppressed state and the hopelessness of its previous programs. It is to be hoped that employers, employees and the government will not miss this opportunity to work out a uniform government-labor-industry policy.

Whatever criticism may be made of these plans, opponents should not forget that there are two very distinct philosophies in American industrial labor relations: the old idea of employer-employee relationship, and the idea of a nationally supervised policy as embodied in the National Labor Relations Act.

The national idea brings out the urgent need of widening governmental interests, by bringing together representatives, employers, employees, experts and humanitarians, and it will affort greater protection, fuller justice, a larger and more abundant life for the worker, without crippling production and hampering the employer in his legitimate efforts toward the increase in the national and personal wealth. Employer and employee must realize that industrial peace is not only possible but practicable, and it must be sought with concerted purpose. It is now an economic commonplace that the successful regulation of labor must become national.

III Settlement of Disputes.

a. By Arbitration.

In many parts of the world, early records show as almost the beginning of law a tendency to discard tribal warfare, the blood feud and other forms of violence for something in the nature of arbitration. The settlement of disputes in accordance with an ordeal or by appealing to the judgement of more or less impartial third person appears to be an idea which in the nature of things would antedate a true and mature legal system. There is, perhaps, a deep underlying instinct which through the centuries has caused men at the first step away from the settlement of disputes through violence to prefer voluntary arbitration rather than submission to authority. This is because violence is likely to spread so as to involve many who originally had no interest in the dispute and perhaps to engulf them and their security in the conflict.

When one attempts to comment on the history of arbitration, he is commenting on a feature of society which antedates the establishment of a legal order and antedates written history itself.

Arbitration, while long associated with the settlement of labor disputes, has come recently into a distinctly new prominence in the volume of its use in that field. Almost all types of controversies and all subjects of collective bargaining are increasingly entrusted to the process of arbitration. Many unions and employers who, a few months ago were adamant against

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submission to arbitration, now accept that step as not only as suitable and final in the settlement of grievances, but also available as an aid to the completion of collectively bargained labor contracts in almost all details. It may be confidently assumed that if high integrity, understanding and strict impartiality, coupled with adequate knowledge of labor laws and economics, characterize the actions of the great majority of the persons selected to act as arbitrators during the next few critical years, the resulting confidence that interested parties will repose in the arbitrational process may, in the not too distant future, eliminate the waste and bitterness incident to strikes, lockouts and any similar pressure steps which in the past have affected dealings between organizations of employers and employees.

There can be little doubt that the recently achieved importance of arbitration must be in part ascribed to war conditions which, for practical purposes originated in 1940. The "no strike-no lock-out pledge," which had as its purpose the furnishing of a foundation for virtually universal arbitration by the National War Labor Board. Collective bargaining thus took a long step forward. Demands of employees and refusals of employers were no longer buttressed upon strikes and lockouts in which economic brute force would be likely to prevail irrespective of fairness and logic. With economic warfare foresworn, parties unable to agree turned naturally to the step of seeking a decision upon the subject in dispute from impartial

and adequately informed third persons. In short, imposition of arbitrary demands or refusals by means of expensive and wasteful exchange of economic blows and losses gave way to logical solutions of a relatively inexpensive and orderly character.

A description and definition of the terms used in the process of arbitration is important to note.

Arbitration may be said to be the hearing and the determination of a cause between parties in a controversy by person or persons chosen by the parties, or appointed under statutory authority, instead of by a judicial tribunal as ordinarily provided by law.

The agreement to submit an existing dispute to arbitration is usually known as a "submission." By this contract the parties undertake to submit to and be bound by the award of one, two or more arbitrators in relation to the matter which may be in dispute between them.

The decision of an arbitrator is commonly called an "award." The term decision however, is not uncommonly used to refer to the entire document in which an arbitrator or a group of arbitrators summarize, weigh and discuss the evidence and the applicable laws as they progress toward the award.

The term "umpire" is sometimes used to designate a presiding arbitrator or an arbitrator selected by the other arbitrators who have been appointed by the parties in the dispute. It is supposed that the umpire will bring to the deliberations of the

board an impartiality and a detachment of view somewhat greater than that which may be found to characterize the treatment of the subject in dispute by an arbitrator directly appointed by one of the disputants. More correctly it should designate a person selected to make a sole decision despite non-occurrence of others acting as co-arbitrators. In somewhat frequent instances the designation umpire is used to refer to a semi-permanently selected arbitrator who, by mutual advance appointment by the parties, is available to be called in to make awards upon any disputed matter which they, themselves, may be unable to solve during the life of the agreement.

Layne & Bowler Case.

Layne and Bowler, Inc; is probably the largest manufacturer of pumps in the country. In its plant in Memphis it manufactures the pumps, pie, screens, etc. for water supply systems all over the world. It has fourteen affiliated companies in this country and in Canada, and five in Europe, Asia and South America. The affiliated companies take orders and contracts for installations, and place the orders for manufacture with the company in Memphis.

Prior to 1941, The C.I.O. had no representation in the Company's plant in Memphis, at least as far as the records show. Three American Federation of Labor Unions were represented: the Moulders Union, Machinists and the Pattern Makers. The Moulders had been organized in the foundry for a good many years and the Company had recognized and dealt with them,

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though there was no formal contract until October, 1940.

Prior to 1934, the Moulders had been strictly a craft union, restricting its membership to moulders and apprentices. At their Chicago convention in that year they amended their constitution to read, "This union shall have jurisdiction over all workers engaged in the production, processing and assembling of castings and related products."

By the addition of this amendment the Union became an industrial union. It is a matter of common knowledge that it takes into its membership all production employees in and around a foundry, without distinction as to race or color. However, the Local No. 66 never enlarged its membership to take in all those men who became eligible under the amendment.

Until 1940 the Moulders Union never had an International representative in Memphis. In September of that year, Mr. F.E. Long, field representative of the International, visited Memphis and attended a meeting of Local 66. He explained the new amendment to the constitution and urged the Local to take in all men eligible.

On October 30, 1940 Articles of Agreement were entered into by the Company and the Moulders Union. By the terms of this agreement the Company recognized and agreed to bargain with the Moulders and Foundry Workers Union as the exclusive representative of all employees engaged in the production of castings for the purpose of collective bargaining. At the time this contract was executed the membership of the Moulders Union included only

those working in the foundry itself. A group of twenty old negro workers in the store room, shipping department, pit and screen shop and Machine shop, although clearly production workers eligible for membership under the Moulders constitution, had never been taken in. The Moulders Union had never bargained for these men prior to the contract, and if in negotiating the contract the union intended to bargain for them, there is no evidence to that effect. Neither party to the contract did anything to indicate that the contract covered these men. The Company did not notify them that under the Union Shop clause they must join the union. The union did not notify them to that effect, and made no demands that the minimum wage provision be applied to them.

In view of the fact that Mr. Long testified that he had explained the membership clauses of the contract at a meeting of Local 66 and urged and instructed the Local to sign up all eligible men, the above stated facts are amazing. They become more so in the light of uncontradicted testimony that an informally selected committee of the group in question began as early as January, 1941, to inquire of their fellow employees as to what union they could join. They approached a member of the Machinist's Union, because a majority of them worked in the machine shop. They were told that they were not eligible for membership in that union. Two of the negroes testified that they inquired of members in the Moulders Union if they were eligible and were informed that they were not. The

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During the last days of July and early part of August, an organizer for the S.W.O.C. was in Memphis and admitted to membership one of the negroes. This immediately became known, and an organizer of the Hod Carriers, an A.F.L. Union came to the plant and attempted to recruit members, but without success. Still the Moulders Union made no claims.

Without any demands having been made, and without warning or notice of any kind to the Company, the Moulders Union, assisted by the Machinists, locked the gates on the morning of September 16, 1941 and prevented the group in question from going to work. There is no evidence to connect the Company with this unlawful act of the Moulders Union. The president of the Company protested vigorously against the lockout and tried to persuade the Moulders to unlock the gates and admit the men to work. His appeals were of no avail. The next day the Union agreed to unlock the gates and allow the men to return to work. Accordingly the gates were unlocked the next day, but the men fearing trouble, stayed out.

The next day the Union sent a letter to the president of the company and asserted that the negroes forming the group in question, came under the jurisdiction of the Moulders Union and were covered by the union shop clause in the contract, and demanded that they be required to become members of the union within ten days or be dismissed. The president replied to the letter of the union and rejected the demands. The letter

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Without any demands having been made, and without warning or notice of any kind to the Company, the Moulders Union, assisted by the Machinists, locked the gates on the morning of September 10, 1941 and prevented the group in question from going to work. There is no evidence to connect the Company with this unlawful act of the Moulders Union. The president of the Company protested vigorously against the lockout and tried to persuade the Moulders to unlock the gates and admit the men to work. His appeals were of no avail. The next day the Union agreed to unlock the gates and allow the men to return to work. Accordingly the gates were unlocked the next day, but the men fearing trouble, stayed out.

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was immediately answered with a strike threat. The company was informed that if the Moulders went out on strike, the machinists would not cross the picket lines. Faced with this threat, the company acceeded to the demands of the union. The company addressed letters to the employees involved, advising them to join the Moulders Union by September 27th or be dismissed. Four of the men joined the Moulders Union, the other twenty were dismissed. Thereupon a charge was filed with the National Labor Relations Board, alleging that the discharges were unfair labor practices.

Upon careful consideration of all the evidence, arguments and briefs, the arbitrator arrived at the following decision:

1. The company shall immediately re-employ at their former jobs all the men discharged.

2. The company shall pay to each of such men re-employed, a sum equal to two weeks pay.

3. The appropriate unit for collective bargaining, represented by the Moulders Union, embraces the employees discharged.

General Motors Corporation-Chevrolet Gear and Axle Case.

On August 7th, 1944, seven employees were discharged by the Chevrolet Gear and Axle Division for participating in and leading a work stoppage in violation of the agreement between the General Motors Corporation and the United Automobile Workers of America. Six of them filed identical grievances claiming that their discharges were unjust, and that management had itself

violated the agreement, and that they were entitled to reinstatement and compensation for all time lost. The seventh employee filed a grievance and stated, "I reported for work on August 7th, 1944 and management refused to allow me to resume my job."

During the spring of 1944 a dispute arose between management and certain employees in Plant #3 concerning proper production standards which should prevail in the Slot Gringing of Valve Tappets. During the course of the dispute several grievances were filed, the job was retimed, and management's final answers were received by the shop committee without appeal. Nevertheless a number of the employees apparently continued to assert that the standards were reasonable and the failure of the employees to meet them were deliberate.

On July 22nd, 1944, three employees were sent home for producing less than the standard and told to return when they were ready to produce a fair days work. A fourth employee was sent home on July 24th under the same conditions, and a fifth on July 26th. On the same day, two of those first sent home reported back for work, but management considered their statements as to their future intentions unsatisfactory, and sent them home again.

On July 26th, apparently in protest, a number of employees of Plant #3 left their jobs and refused to return. The stoppage quickly spread. On July 27th all of Plant #3 was affected; On July 28th Plant #6 went down.

On July 31st all of the remaining plants were struck and picket lines were formed in front of their entrances. On the same day the Regional War Labor Board sent a telegram to the Union directing the striking employees to return to their jobs immediately. The strike nevertheless continued. Because of their failure to terminate it, the officers of Local 235 were suspended by the International Union and an administrator was placed in charge of the union. Nevertheless, a mass meeting was held on August 3rd and the employees voted to remain out on strike until their grievances were settled and the discharged employees put back to work and that none should be refused reinstatement because of participation in the stoppage.

On the same day, the Regional War Labor Board directed representatives of the Union to appear before it on August 3rd, and show cause why the employees had not returned to work. Representatives of management were likewise asked to attend.

At the hearing it developed that on the previous day the Corporation had notified the Union that it intended to discharge six of the seven employees involved--A, the President of the Local Union, B, the shop committee foreman, C, a former shop committee chairman, D, a former shop committeeman, E, another shop committeeman, E and F were also former shop committeemen--because of their efforts in leading and directing the stoppage. The Board inquired into their status and found that they were not yet discharged and were still employees.

While the parties were still at the hearing, the Board

issued the following Directive Order:

1. The employees of the company are ordered back to work immediately.

2. The representatives of the Company and the Union are directed to do all in their power to further the resumption of work and full production.

With regard to the six employees whose status was in question, the chairman of the Board explained that "the return to work of all employees means that the six men are to return to work immediately."

At a mass meeting held on August 6th, the striking employees were informed of this Directive Order and of the assurance that all employees without exception were to return to their jobs. On that understanding, and in response to the pleas of the International Union representatives, the employees voted to return to work. They did so at the start of their various shifts on August 7th. When the six employees named at the hearing reported to the plant, however, they and one additional employee-F.; a district committeeman, were not allowed to resume their jobs. Instead they were referred to the Personnel office where they received three hours call in pay and formal notice of their discharge.

When the employees learned of this, they again went on strike. In an effort to secure termination of this new work stoppage, the War Labor Board summoned the parties to another hearing on August 7th and issued a new Directive Order. It

stated:

The employees of the Company are ordered back to work immediately. The International Officers, the Administrator and the Local Union representatives are directed to use their full authority of their offices to accomplish such return to work.

The chairman of the War Labor Board explained that since the six employees had now been discharged, the Order did not require that they be taken back.

As it became apparent that despite this Order, production would not be resumed, the War Labor Board, on August 10th, held a hearing in Washington at which the entire question of the status and disposition of the seven discharged employees was discussed. Following that hearing the Board issued a Directive Order, the first paragraph of which repeated verbatim the language of the Regional Board's Order of August 8th, the second paragraph of which read as follows:

"The seven employees who were discharged on Monday, August 7th, 1944, are now not to be returned to work. Their discharge grievance shall be considered by the Impartial Umpire under the contract within five days after the resumption of production."

Production was resumed on August 14th, 1944 and four days later these grievances were heard by the umpire.

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1-Whether or not the conduct of these seven employees in connection with the first stoppage, considered alone, justified their discharge.

2-Whether or not their discharge was improper in view of the specific direction of the Regional War Labor Board that they return to work.

Both parties conceeded that the first issue was properly within the jurisdiction of the umpire. As to the second, the union contended that it had been brought within his jurisdiction by order of the National War Labor Board. It flatly asserted that in an effort to end the stoppage and insure resumption of production, the Regional Board, by its Order of August 4th, had superseded the Agreement and deprived the Corporation of the right to discharge any employees because of their participation in a strike.

The Corporation vigorously disputed this contention. The authority of the umpire stems entirely from the agreement. The National War Labor Board did not abrogate the Agreement, or vest in the umpire special arbitral powers, or designate him individually as its agent to interpret and give effect to the Orders of the Regional Board. It merely referred these grievances to him for consideration "under the contract." By so doing, the Corporation urged, it obviously contemplated that the umpire would consider these cases in the same manner that he consider grievances arising from the discharge of strike leaders and that the sole issue before him would be whether or

not the activities of the discharged employees were such as to justify the penalty imposed.

On this question the umpire found himself in disagreement with both parties. He found the union clearly wrong in its belief that the Regional Board intend to supersede the agreement, or that the National Labor Relations Board extended his jurisdiction beyond contractual limits. He found the Corporation wrong in contending that merely because the umpire cannot interpret or enforce it, the Order of the Regional Board has no bearing on this case.

When an employee alleges that he was discharged or penalized without good cause, he places at issue not only his own conduct, but that of the employer as well. Present in every such case is the question of whether or not the employer was exercising his disciplinary function under the written agreement. It is the duty of the umpire to ascertain just what the employee did and what steps management took to warn and correct him. Also how management treated other employees in similar circumstances and was the attitude fair. In all cases where an umpire has been called in to settle cases of discipline, he must decide whether management's exercise of its right to discipline for cause was proper and should be upheld.

The umpire in this case noted the factor which conclusively distinguished the conduct of these employees from that of their fellow workers was their position as union officials. The gravity of their offense arose from their disregard of the

obligations that union office brings. It is significant to note that during the stoppage, the executive board of the International Union saw fit to suspend these officers and place an Administrator in charge of the Local.

The umpire has no authority over the internal affairs of the union. His authority to set conditions upon the modifications of a penalty seems clear and has already been exercised. Weighing all the circumstances, and balancing the offenses of these employees against the misconduct of the Corporation, he decided to rule as follows:

1. Upon conditions that employees A,B,C,D,E,F, resign any office they hold in Local 235 and upon condition that the Local and International agree with the Corporation that they shall hold no office for a period of one year from the date of their reinstatement, their penalties shall be modified to show a disciplinary lay-off of ten weeks. If these conditions are fulfilled, they shall be reinstated to their jobs on October 16, 1944 and their employment records corrected accordingly. If these conditions are not fulfilled, their discharges shall stand.
2. The case of the seventh employee was reinstatement at once since his discharge was not proven.
3. The case is a violation of the agreement between the Union and the Corporation and no back pay is awarded.

The Wright Aeronautical Corporation Case.

This dispute between the Wright Aeronautical Corporation and the International Union, United Automobile Aircraft and Agricultural Implement Workers of America, Local 669, C.I.O. grew out of the demand by the Union that the Company remove the acting supervisor in one of its foundries, and the refusal of the Company to do so. The demand for the removal of the supervisor was based on various alleged grievances against him by the employees, the claim that his conduct was destructive to morale, that in dealing with employees, he was arrogant and unreasonable, that through reprisals, actual and threatened, the procedure for redressing grievances had been rendered ineffective, that his management of the foundary had resulted in loss of wages and work to the employees with consequent slowing down of production and injury to the war effort. The Company denied the truth of these charges and refused to remove the supervisor.

The failure of the company to remove the supervisor resulted in a walkout by the employees, notwithstanding a provision in the contract between the Company and the Union that any strike would be a violation of the agreement.

After conferences with the Army, National War Labor Board, the Company and the Union, the employees were persuaded to return to work pending an arbitration of the issues involved. It was agreed between the Company and the Union to submit two questions to the arbitrator to be selected by the Chairman of Region #2 of the National War Labor Board. The two questions

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submitted were:

1. Is the Union's demand for the removal of the supervisor arbitrable?
2. Shall the Union's demand for the removal of A.L. Knowles be granted?

In connection with the second question, it should be pointed out that Mr. Knowles' position with the Company is that of Assistant Supervisor in one of the foundaries, that because of the absence of the supervisor, due to illness, Mr. Knowles has been acting supervisor in the foundary. Thus Mr. Knowles is clearly a supervisory employee and therefore is not included in the bargaining unit under the contract entered into between the Company and the Union, dated October 21, 1943. The contract expressly excluded supervisory personnel from the bargaining unit.

At the outset it should be pointed out that the functions and the powers of the arbitrator in this case are limited by the specific issues submitted to him by the joint action of the Company and the Union.

It is not the function of the arbitrator to decide how the Company or the Union should conduct their affairs or discharge the heavy responsibility which rests upon them to maintain plant efficiency and maintain production at top speed. Both management and production workers play an indispensible part in the achievement of these ends. The functions they perform are quite different and call for different skills. Interference

of once with the functions of the other tend to impair and even destroy plant efficiency. It is only through uninterrupted cooperation that these ends can be fully attained.

Effective cooperation necessarily requires concessions at times by both management and the workers. But this does not mean that every demand must be granted. Peace bought by unwise concessions may in the long run do more harm than good. There is a difference between appeasement and cooperation. A failure to recognize the distinction by those conducting an industrial enterprise or a national may and has resulted in disaster. In the case of industry, the responsibility for making decisions, whether they be by management or by labor, must necessarily rest upon those in charge. Authority to make particular decisions may be delegated, but responsibility for the delegation and its results must in the end rest with those who delegate.

An arbitrator, appointed by or with the consent of the parties to a controversy, exercises a delegated authority. It is neither his duty or privilege to do more than decide the specific issues submitted to him.

Within the limits of the issues submitted to him, he may exercise his own best judgement. He should bring to bear such wisdom as he has in seeking the right answer to the question asked. Beyond this he may not go.

Whatever may have been the intentions of the parties in the case under consideration, they have not made a clean cut submission of the merits of the controversy to arbitration.

This they could have done by submitting the second question alone. But they have submitted two, the answer to the first conditions a consideration of the second. It is obvious that if the first question is in the negative, a consideration of the second question would be futile since the arbitrator would be without power to resolve the issue.

At the hearing, which began in Paterson, N.J., on Monday, December 13, 1943, a counsel for the Company and the Union confined their arguments to the first question. Upon completion of the arguments, it was agreed to adjourn the hearing until Wednesday, the 15th or December, 1943, in order to give the arbitrator time to consider the arguments which had been made, to study the contract between the Company and the Union, and to examine various other cases and documents submitted by the parties, with the hope that a decision might be reached respecting the first question before the Company and the Union were put to the expense of introducing evidence on the second question.

During the evening of the 14th of December, the arbitrator called the counsel for the Company and the Union into a conference to amplify their contentions, and answer cases that had been submitted to support their contion. At this time it was agreed to extend the time of the consideration of the first question until the morning of the 17th.

The question "Is the Union's demand for the removal of the supervisor arbitrable?" taken literally and without reference

to the circumstances which led to its submission, presents no issue. The removal of the supervisor is arbitrable if management and labor agree unconditionally to submit the question of removal to arbitration. The question presents an issue only if one of the parties, in this case the company, has not agreed to submit the question unconditionally. Therefore the first question must be interpreted to mean can the question be settled by arbitration without the unconditional consent of the company?

It was argued that unless the grievance procedure was interpreted to permit the arbitration of the removal of the supervisor, the workers have no adequate remedy in the present case as it is claimed that an intolerable situation has developed which can be cured only by the removal. It was contended that under war conditions, the employee is not free to leave his job and seek employment elsewhere without a release from the company, and therefore the grievance procedure should be interpreted as to permit the removal, through arbitration, of a supervisor who is intolerable to the employees.

If a grievance procedure provided in a contract is ineffective in curing the situation, then that is a defect in the contract. It would be highly improper for the arbitrator to distort the terms upon appeal of either party so long as the contract stands.

If the process of collective bargaining is to survive as a method of adjusting industrial disputes and conflicting interests of employer and employee, both parties to the contracts

that are made must respect and abide by their terms.

It was contended by counsel for the Union that even should it be held that the removal of a supervisory employee is not arbitrable under the contract, it should be held to be arbitrable as a matter of policy independent of the contract in view of the emergency that has arisen in the Wright Plant, the uninterrupted operation of which is essential to meet the needs of the armed forces. The importance of the smooth operation of the Wright plant to the war effort is a fact which the Company should remember in deciding whether it is sound policy to keep a supervisor in a job when he is having difficulty in handling the employees.

It is also a fact that employees should consider before they walk off a plant, when no strike had been called by their union, due to the presence of a supervisor they do not like. The irritation caused by an unfair or unreasonable supervisor is a trivial grievance when compared to the irritation which soldiers must bear when needed supplies do not arrive.

The Wright Corporation refused to arbitrate the second question unconditionally, and the arbitrator ruled in the negative on the first.

The National Labor Relations Board ordered the union to direct its members to return to their jobs. This was done and the plant resumed full scale operations.

Great Lakes Steel Corporation Case.

This case grew out of the discharge of an employee who was alleged to have been guilty of slow down and work stoppage activities. The case was submitted to the Department of Labor for settlement and an impartial umpire was appointed to hear the facts and decide the issue. The question to be passed on by the arbitrator was: Whether or not the discharge of Anthony Rienhart was justified? If not, whether back pay should be allowed? If so, how much?

A hearing attended by both parties was held in Detroit, Michigan on March 12, 13, 14, 17, 18, 19 and 20, 1942 at which time evidence was presented and testimony given.

The company contends that Anthony Rienhart was discharged on January 29, 1942, because a stoppage of work in the No. 2 Strip Finish Department on January 23, 1942, and because of Mr. Rienhart being responsible for or taking part in the controlled lower production of the department.

The Union contended that the discharge of Anthony Rienhart was unjustified and that he was discharged because of his union activities.

The company offered evidence which it contended proved that Anthony Rienhart was responsible for the work stoppage and responsible for the controlled lowered production of the Finish Department.

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The union offered evidence which it contended showed that there was no justification for the discharge and that Mr.

Rienhart was doing everything he could to increase production.

During the course of the testimony, it was revealed by certain employees that Mr. Rienhart gave orders and did certain things that limited production. Yet he denied these allegations and pointed out that he made speeches at various union meetings to men who were out on strike to return to work.

The arbitrator in questioning Mr. Rienhart found that he had falsified his place of birth and previous employment. This knowledge forced the arbitrator to place little credence in the statements of the discharged employee, and he held that the discharge of Mr. Rienhart was justified.

b. Government Intervention:

The question of relationships between strong organizations of employers and employees and industrial peace is of importance since it appears that intervention of governmental agencies in the adjustment of labor disputes has a long run effect on strengthening the union organization. To a much lesser degree, such governmental intervention may even result in strengthening the hand of isolated individual employers.

The intervention of governmental agencies in specific labor disputes usually strengthens the weaker party. Prior to such intervention, the stronger party had nothing to mediate or nothing to arbitrate. However, when a government agency enters the picture, both parties feel that it is necessary to appear reasonable and cooperative. The stronger party may find that it may be unwise to press an unreasonable point of view

before an adjustment agency, even though the party has the economic power to enforce its demands. This is particularly true when a public report may be made on the dispute.

Unions have, historically speaking, been the weaker party, and it is interesting to note that unions have in the past requested mediation much more frequently than have employers. Likewise in the past, unions have accepted arbitration with more alacrity than have employers. Arbitration and mediation offer the weaker party the possibility for securing some concessions which could not be secured solely through economic power.

The former National Defense Mediation Board and the present War Labor Board have frequently awarded responsible unions a maintenance of membership provision, and this certainly strenghtens these unions at a time when the no strike pledge might otherwise result in seriously undermining union organization. Unionism in the railroad industry had increased in strength since the Railway Labor Act of 1926.

Employees are more apt to meet with and to negotiate with union representatives under the auspices of a mediation agency than otherwise.

Most mediation agencies attempt to secure written agreements, this being an advantage to the union.

These and still other factors suggest that governmentel intervention in the adjustment of labor disputes had a long run effect on strengthening union organization and even in some

cases employers. This of course, if not the purpose of intervention but merely an inevitable by product. Under these circumstances, it is pertinent to inquire whether strong union organizations of employers and employees are conducive to industrial peace.

The view is frequently expressed that "the frequency of strikes varies inversely with the strength of the union." This view is held to be typical by some labor leaders and labor authorities. Samuel Gompers expressed it very well when he said, "As a consistent opponent of strikes, though I do find that those organizations of labor which have best provided themselves with the means to strike have continually less occasions to indulge in them. The most potent factor to prevent or reduce the number of strikes is a well organized trade union with a full treasury ready to strike should the necessity arise. In fact, the number and extent of strikes can be accurately gauged by the extent, power and financial resources of an organization in any trade or calling. The barometer of strikes rises with lack of, or weakness in, organization, and diminishes with the extent and power of the trade union movement."

This view is supported by the record in some industries and is opposed by the record in other industries. Thus, growing union organization seems to have been associated with a decline in strikes in the following industries: daily newspapers, men's clothing industry, railroads and glass. However,

increasing trade union strength has not been associated with any marked trend toward industrial peace in the building trades industry or in the bituminous coal industry.

Some authorities on labor problems hold to the theory that strikes tend to increase with increasing union strength. John Griffen, after making a statistical analysis of the relationship between unionization and strikes has concluded that the growth of unionization had been accompanied by the increase, or at least the continuance of industrial disputes. Dr. Paul Douglas also made a detailed statistical investigation as with respect to the relationship between unionization and strikes and concluded that union members were from 15 to 38 times as apt to strike as non-union members in the period 1821 to 1921.

Statistical studies such as those of Griffin and Douglas fail to prove that increasing union strength leads to any more strikes. Strikes are influenced by many more variables which do not readily lead themselves to accurate and meaningful statistical analysis. It is of course probably true that a union member is more apt to be involved in a strike than a nonunion member, but that is not the real question. The question involves the relative frequency of strikes as between a strong union and a weak union, not as between a union and a non-union. On this point available statistical analysis is not conclusive.

There has been still another point of view which has commanded much support for many years. This is that a strong

organization by one of the parties does not lead to any appreciable lessening of industrial conflict but that the minimum possibilities of industrial peace will be realized only when there are strong organizations of both employers and employees.

This view was strongly expressed by E. Dana Durand, Secretary of the United States Industrial Commission, as early as 1900.

The report of the President's Commission which investigated industrial relations in Great Britain in 1938 supports the contention that strong organizations of both employer and employees are conducive to lasting industrial peace. The Commission stated:

"Repeatedly employers and the representatives of employers' organizations stated to us that they preferred strong unions to weak ones, because the strong unions are better able to secure the fulfilment of the contract and is better able to bring competitors up to the wage and hour standards of the industry, as set by the agreements. Repeatedly labor representatives stated to us that they preferred strong employer organizations to weak ones, because the stronger the organizations the fewer the units which remain outside to undermine industry standards. We can, however, state with certainty, that in those industries where collective bargaining between national unions and national associations of employers have been long established, strikes have been rare, and in many instances non-existent since the very beginning of the collective

bargaining arrangements."

"Recently Morris Llewellyn Cooke and William H. Davis have strongly urged the creation of industry-wide employers' associations for the purpose of bargaining collectively with the organizations of employees."

It is impossible to prove conclusively that strong organizations of both employers and employees will operate to lessen the number of strikes. However, it seems possible that strong organizations on both sides would mean fewer strikes, but that the strikes that did occur would be more serious. To meet these occasional crises, something similar to the emergency boards in the railroad industry would probably have to be created on the federal level.

The problem of conflicting jurisdictions between adjustment agencies is of vital importance, since the introduction of a number of persons from different agencies into an individual dispute generally results in confusion and delay. Both parties go from one mediator to another, sometimes telling conflicting stories, playing one mediator against the other, and attempting to utilize one mediator against the other as bargaining instruments.

Information is readily available on cases where as many as five distinct interests were attempting to mediate a dispute. In the Vultee strike, three federal agencies attempted to mediate the dispute. In the recent Allis-Chalmers dispute, four different federal agencies intervened and the state board

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offerred its mediation services. Many other similar instances have occurred.

The problem of jurisdiction is a difficult one. With respect to the overlapping authority of the federal agencies, these conclusions seem sound:

1. Where a federal special adjustment agency has been created for a specific industry, such agency should have exclusive jurisdiction.

2. Apart from such special agencies, one federal agency should be given exclusive jurisdiction, and no other federal agency should be allowed to offer its services or permit its services to be utilized in mediation except upon the specific request of the agency having exclusive jurisdiction.

These recommendations will not, however, meet the problem of conflicts between the federal and state agencies. It is probable that the federal agency could not legally prohibit state agencies from attempting mediation in disputes occurring within state boundaries. Moreover, such an arrangement would be of questionable wisdom. The only satisfactory arrangement seems to be mutual agreement between federal and state agencies in individual states specifying that each agency shall give notice to the other at the moment it intervenes in a particular dispute. Satisfactory arrangements are possible if the respective agencies sincerely desire them.

IV. Arbitration.

It is the prevailing view that disputes of all kinds excepting those involving criminal questions may properly be submitted to arbitration. Both questions of law and fact may be arbitrated and it is not required that the subject matter be one on which a suit might be brought in the courts.

The breath of the arbitrational field is not restricted by the arbitrary classifications of law. Torts, contracts and property questions, including future as well as past damages, may be submitted for an award. Even rights in land may be submitted to arbitration and the final award becomes binding on both parties despite the fact that the arbitrator could not pass upon the title.

With this great breath of action open to arbitration it is not surprising that the scope of its use has been equally broad in recent years. The motion picture industry has found it particularly effective because of its speed and flexibility in the matter of adjusting disputes of all kinds.

In the United States there exists several thousand commercial and trading associations. Hundreds of these have made their own rules on arbitration. They have made a notable contribution toward maintaining good relations among their members who have been parties to disputes. In the field of foreign trade, many parties have discovered that arbitration operates much more effectively and quickly than the courts of any country having possible jurisdiction of the disputes.

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No field of human endeavor in recent years has employed arbitration more extensively than labor and industry in attempting to settle labor disputes.

The following table of figures complied by the United States Conciliation Service of the Department of Labor indicate the number of cases in which arbitrators were appointed by that division, to bring about a settlement of labor disputes.

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1940-1941--------229

1941-1942--------656

1942-1943-------1475

1943-1944-------1444

From these figures it can be readily ascertained that the curve of arbitration is steadily rising and also points to the fact the increasing role government has played and will continue to play in maintaining industrial peace.

National Labor Relations Act.

In a series of five decisions on April 12, 1937, the United States Supreme Court established the constitutionality of the National Labor Relations Act passed in 1935. The Court affirmed that Congress under its powers to regulate commerce among the states, has the authority to protect the collective bargaining rights of the workers whose businesses are substantially interstate in character.

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The National Labor Relations Act declared it to be the policy of the United States to prevent and mitigate labor

disputes, by encouraging the practice and procedure of collective bargaining and by protecting the exercise of the workers of full freedom of association, self organization, and designation of representatives of their own choosing. For many years before this statute was enacted there had been a recognition of the evils of constant industrial strife and the magnitude of its effect on the commerce of the nation. During certain periods of readjustment the evil became more pronounced, the controversies more numerous and more apt to spread, through sympathetic action, to other enterprises in the industry or to other industries.

The National Labor Relations Board gets jurisdiction over a case when a charge is made by a union representative or an employee, that an employer has engaged in or is engaging in unfair practice. As the Act now stands, this is the privilege of the employee. Then the Board or any of its agents is authorized to serve a complaint against such a person, and a hearing is held and a finding of fact is made as to whether the defendent is or has been guilty of any of the five unfair practices listed in the Labor Relations Act. Jurisdiction is limited to the investigation of questions affecting commerce, interstate and foreign. The practices that are declared unfair for employers are:

1. To interfere with, restrain or coerce employees in the exercise of their right guaranteed by the law to organize and to bargain collectively through representatives of their

choosing.

2. To dominate or to interfere with any labor organization or to contribute financially or to otherwise to its support.

3. By discrimination in hiring or employment to encourage or discourage membership in any labor organization.

4. To discharge or otherwise discriminate against any employee who files charges or gives testimony under the Act.

5. To refuse to bargain collectively with representatives of employees as provided in the Act.

No penalties are provided for non-compliance with the Board's orders, or for refusal to testify or to produce records or to answer subpoenas. The Board is authorized to petition federal circuit courts of appeals for decree to enforce its orders, and these courts may then punish for contempt.

The Remington Rand Case:

One of the bitterest labor disputes of recent years was carried to the Supreme Court by the Remington Rand, Inc., which contested the validity of the orders of the National Labor Relations Board. The Company asked the Court to review a decree of the Second Circuit Court of Appeals compelling the company to comply, with minor modifications, with a cease and desist order issued by the Board.

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were barred from reinstatement. The company's petition said the number might run as high as 4,000.

The company charged that the Circuit Court should have nullified the Board's order because misconduct by union members during the strike had barred them from aid. "To say that a union guilty of misconduct may compel the employer to bargain with it, and to say that members of the union, who were guilty of crimes committed subsequent to the date of the strike, are entitled to reinstatement, is to encourage industrial strife rather than to eliminate the cause of it."

The company specifically challenged the Board's findings that the Remington Rand Joint Protective Board of the District Council of Office Equipment Workers, a unit of the Metal Trades Department of the American Federation of Labor, represented a majority of the workers at the six plants involved.

The Board directed the company to recognize the Protective Board as bargaining agency and to bargain with it for workers at the plants in Tonawanda, Ilion, Syracuse, N.Y.; Middleton, Conn.; Marietta and Norwood, Ohio.

The Remington Rand petition asserted that the Board had gone far beyond its legal powers in ordering the reinstatements and pointed out that in each instance where former employees accepted reinstatement, a present employee whould have to be discharged. Therefore, the petition concluded, as many as 4,000 current workers would face the loss of their jobs.

Remington Rand lost the case and the process of reinstate-

ment of discharged employees began on July 28th, 1938. All but some 200 who wanted to go back to their old jobs had been reinstated.

The Wagner Act:

The Wagner Act recognizes the interests of the public, labor and industry. It seeks to relieve the public of costly labor disturbances through eliminating the deep-rooted unrest brought on by employers, who are determined to defeat the organizations of their workers. In labor's behalf it seeks to make it unnecessary for workers to undergo the hardships and dangers of strikes in support of a right recognized for decades by the courts, by party platforms and by legislators and legislatures. The prohibition of unfair labor practices imposes no undue hardships on violations, and to industries voluntarily complying with the law it affords protection against sweat shop tactics of unscrupulous competitors.

The Social Security Act.

The Federal Social Security Act was approved on August 14, 1935. This measure, providing among other things, the beginning of a nation-wide system of unemployment insurance, attempts to offset many of the hardships a worker may experience by finding himself unemployed through no fault of his own.

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Railway Labor Act.

The Railway Labor Act of 1926 stated explicitly that railway workers should be free to choose their own representatives for purposes of collective bargaining. After making it the mutual

duty of the carriers and their employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions, the Act provides: "Representatives, for the purpose of this Act, shall be designated by the respective parties in such a manner as may be provided for in their corporate organization or unincorporated association or by any other means of collective action, without interference, influence or coercion exercised by either party over the self-organization or designation of representatives except by designated authority."

The importance of the above provision was to encourage bona fide labor organizations. In 1930 the United States Supreme Court held this provision constitutional, but on the basis of it upheld an order of the federal district court, directing the disbanding of a company union by the Texas and New Orleans Railroad among its shop employees. After this decision by the federal courts it became certain under the Railway Labor Act of 1926 company unions and yellow dog contracts could no longer be used to dominate labor organizations.

Thus it can be readily seen that the passage of the National Labor Relations Act, (the Wagner Act,) the Social Security Act, and the Railway Labor Act, laid the foundation for the process of arbitration under government supervision. Most authorities of the subject of labor, agree that the enactment of these laws by the Congress has done more to stabilize the labor situation than any similar attempts. That these laws are but a forerunner

of subsequent government regulation of labor and industry, only the ill-informed can doubt. If the United States is to experience the ideal in social-labor and industrial relations, then government must, in order to protect the well being of the entire nation, take a positive and uncompromising stand, in order to eliminate industrial strife. Too long has the government allowed industry and labor to settle their disputes on the basis of a pitched battle. Arbitration, and all that it implies, seems to be the avenue of escape from the economic and personal loss entailed by industrial disputes. The paternal attitude of government has been assailed by many free thinkers and pseudo-economists, in matters concerning labor and industry. They claim that in the economy that has made this country great, the less government infringes in matters concerning labor and industry, the better it will be for the country and the citizens. Such an attitude is fallacious and can only lead to disaster. Industry and labor must recognize the rights and the duties of each other, and cooperating with each other under government regulation, not supervision, can lead to a better life for all.

V.Weakness of Collective Bargaining.

a.Jurisdictional Disputes:

One serious problem confronting orderly collective bargaining grows out of dissension in the organized labor movement-out of jurisdictional disputes,of rival unions in the same field and of personal animosities which are either causes or results the foregoing.The term"jurisdictional dispute" is now popularly accepted as a disagreement between unions over the right of one or the other to represent a particular group of employees, or over which union is to control certain work.

Such disputes have long plagued organized labor.They are more frequent among craft than indistrial unions, because changes in occupation,new materials,and new production methods which may require retaining or regrouping of skills,and new industries create situations where craft jurisdictions conflict.

b.Uneven Growth of Collective Bargaining.

The entire history of collective bargaining has been marked by uneven,ragged development,differing in various industries and periods and places.There is no uniform pattern discernible either in the past or the present.Such a beginning and history points to an inhearent weakness in the plan and policy of collective bargaining.

c.Lack of policing.

There are few legal precedents for policing a collective agreement.Its success or failure depends upon the mutual trust,good will and intelligence with which management and

unions can surround a controversial point.To apply collective bargaining competently,or to use it even reasonably well,requir es hard work;and like most hard work,it is easier to evade than to carry out.

d.Lack of Guiding Precepts.

Among our more mature labor and employ er groups,few guiding preecpts are to be found.Collective bargaining too often becomes a compromise based upon approximation and financial power of the two parties rather than upon scientific verifiable evidence.This conditions only lends to continu ed bitterness and distrust by the parties in a labor dispute.

e.Collective versus Individual Bargaining.

The fact that less than one third of the total working force in the United States is unionized is of ten cited to prove the individual bargain superior to the collective bargain.Advocates of this view affirm that the relatively small percentage of laborers in union organizations suggests that employers can be counted on to give the worker a fair deal.To be sure,some employers,on the basis of the individual bargain,provide wage standards that equal,and even surpass,those in unionized establishments.This is one of the most controversial topics in collective bargaining and much can be said for both sides of the question.Some students of collective bargaining con sider this topic one of the weakness of the baggaining policy.

f.Lack of Knowledge by public.

During the war,the intervention of gov-

ernment in settling industrial disputes tended to bring the idea of of collective bargaining to the attention of the general public. It is important for the citizens to have an understanding of the critical importance of stable and harmonious industrial relations and this can be accomplished by a complete understanding of the part collective bargaining plays in any industrial dispute.

V. Improvement in Collective Bargaining.

Those who advocate arbitration sometimes talk as though the workers have in them some perverse streak which makes them want to strike. They have no understanding of the low wages, long hours, speed-up, the discrimination, and the petty tyrannies that drive workers to desperation. Nor do they understand that workers usually strike as a last resort in order to obtain an income, and that income is interrupted by a strike. To a youth, tire of drab factory life, a strike may bring a touch of adventure and excitement but a worker with family responsibilities is sobered by the thought of mounting debts. It is no fun to pound the pavements for hours in a picket line, in rain or snow. It is not pleasant to be charged by mounted police, or slugged by hired hoodlums, or be the target for tear gas bombs. Workers strike because they have grievances beside which these terrors are as nothing, and because they have learned by long experience that only a militant union, able and willing to strike when that becomes necessary, can wrest concessions from powerful employers.

But why not arbitrate, and save the loss to employer, suffering to the strikers, and the inconvenience to every one else? When unions are powerful and well established, arbitration has and can prove satisfactory. In certain American industries collective bargaining and arbitration have proven highly satisfactory over a period of many years. The men's clothing industry is perhaps the shining example of this contention.

Often supposed impartial arbitrators revealed themselves as men with the employers point of view and thus make the workers suspicious of the value of arbitration. Yet workers both in the United States and Great Britain, have called for arbitration many more times than employers, because workers have been usually in the weaker position, and it is the weak who are most eager to arbitrate. For arbitration usually insures some sort of compromise, whereas in battle the weaker party may expect complete defeat.

VII.Conclusion.

This review of efforts to maintain industrial peace demonstrates that collective bargaining and arbitration are,and can be effective means in shaping the industrial welfare of the United States.The part of wisdom is to attempt,not to outlaw strikes,but instead remove the just grievances of the workers which are the primary causes of strikes.If that is done,if employers are forced to bargain collectively,to establish proper working conditions,and pay adequate wages,relatively few strikes will occur.The longest and most severe strikes have occurred, not where labor was powerfully organized and management willing to deal with it,but where the right to organize was not granted and genuine collective bargaining was denied.It is where unions are weak,not where they are strong,that strikes are to be most expected.

No responsible labor leader will sanction a strike if continued negotiations offer promise of a satisfactory agreement Where outlaw strikes have occurred it was usually due to the unfair practices on the part of the employer and inexperience on the part of the workers and their leaders.

The United States is making steady progress now with the National Labor Relations Act,but this law needs some revision in order to make its application more just for all concerned. Under its existing provisions,labor has the upper hand and management is placed in a disadvantageous position.If wage boards fix minimum rates for the so-called sweat industries,and the Nat-

ional Labor Relations Act protects the right of the workers to organize and bargain collectively,relatively few strikes need occur.Conciliation service should be continued and voluntary arbitration encouraged.If,despite this progress,compulsory arbitration is attempted,industrial relations would be embittered,and a discouraging situation would likely follow.Along the path of voluntary collective bargaining lies the greatest hope of satisfactory and peaceful industrial relations.

The following outline for effective settlement of disputes seems to the writer to include all the essentials for good collective bargaining:

1.Sincerity of intentions to truly bargain collec tively.If management,especially,looks at the bargaining process largely in terms of what it can force down the other fellow's throat and squeeze out of him,then the process certainly is not going to work.

2.An honest expression of facts.Generally speaking,both sides set up a great many issues or over state their case to create a "bargaining reserve"upon which they can give in if necessary.So frequently,the issues as they come into being,are far from what each side wants and is willing to give.Labor must be willing to support its demands,and management its demands,with an honest and genuine supply of facts.

3.Responsibility by both parties.A contract means little if not entered into by persons who intend to be responsible for their bargain.Furthermore,in the actual negotiation itself,it is most necessary that responsible top executives parti-

tional Labor Relations Act protects the right of the workers to organize and bargain collectively,relatively few strikes need occur.Conciliation service should be continued and voluntary arbitration encouraged.If,despite this progress,compulsory arbitration is attempted,industrial relations would be embittered,and a discouraging situation would likely follow.Along the path of voluntary collective bargaining lies the greatest hope of satisfactory and peaceful industrial relations.

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cipate.In addition,it is most essential that both Management and Labor begin to think more clearly about their individual responsibilities to each other and not merely their"rights."

4.Continuous relationship between union and company officials.Good collective bargaining means more than negotiating contracts.Where company and union officials maintain continuous day to day relationships,and work with each other to make for good industrial relations you will generally find the negotiation of contracts and the whole collective bargaining process is far more effective than where top executives only meet the problem on a crisis or negotiation basis.

5.Better understanding of the companies policies and problems by union leaders.Management is frequently reluctant to bring the union official closer to the company so that he can understand their problems.Yet where this can and is done the tendency is for the union official to have a great partnership attitude.Too frequently the only time the union official gets to know some of the problems is over the negotiation table.

6.Knowledge of facts.This is an outgrowth of item#5, and means that both the union and the company should be more o open with each other in furnishing each other with information and facts.not just during negotiation but continuously.

7.Proper attitude by both management and labor.It would be ideal if both parties could have an open minded attitude of cooperation and not merely think of the other fellow as someone who is trying to trespass on his rights.We can't expect that labor and management will develop the attitude of "sweet-

ness and honey"toward each other,but neither do we want a continuous attitude of distrust and even hatred.

8.Properly educated foremen and supervisors and shop stewards.

9.Adequate presentation of the case.So frequently during negoiations either the labor or management side is so poorly presented that the best bargaining is impossible.This holds true for the presentation of cases before arbitration boards and governmental agencies.Management is probably more guilty than labor.The plant superintendent,personnel man may understand facts very well,but may not be good negotiators.Much of the success of negotiation and arbitration depends upon effective presentation of the case and not just the facts involved.

10.Absense of a governmental agency to settle issues.So long as there is a governmental agency with authority to determine issues,both sides will tend to point their case toward this agency and not to engage in honest responsible collective bargaining.

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